

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

February 7, 2001

Ref: ENF-L

**BY FEDERAL EXPRESS**

Tom Lewis, Esq.  
Lewis, Huppert & Slovak, P.C.  
P.O. Box 2325  
725 3rd Avenue North  
Great Falls, Montana 59403

Dear Mr. Lewis:

As we discussed in our telephone conversation of February 6, 2000, I am enclosing a final agreement for partial compensation of property damages incurred as a result of response actions performed by the U.S. Environmental Protection Agency ("EPA") pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604. While redrafting pursuant to your suggested changes, I found it necessary to make four changes to your language. The first change, which is in the fifth Whereas clause, was made to reflect the fact that the longshed has not yet been demolished. The second change, located in the Release of Claims paragraph, defines "infrastructure", since EPA has compensated the Parkers for irrigation parts above-ground. The third change, in the same paragraph, is stylistic and meant solely to clarify our intent to reach a fair and appropriate settlement on the buildings. The fourth change, also in the Release of Claims paragraph, removes "fences" from a future compensation agreement, as EPA is building the Parkers a new fence, rather than compensating them for one.

In our telephone conversation I indicated that the Parkers would have to provide some information, such as social security numbers, in order for EPA to issue the wire transfer. I have now incorporated this information into the agreement, so by fully executing the agreement the Parkers will have provided all necessary information. I have also added a payment paragraph and lines for entry of social security numbers.

As I have indicated to you in prior correspondence, EPA wishes to continue to work with the Parkers to seek an adequate and accurate appraisal of the compensable value of the contaminated buildings in order to ensure that the value arrived at is justifiable under EPA's regulations and acceptable to the Parkers.



Despite this being a final agreement, I am willing to work with you to make last minute changes necessary to resolve this issue. Please call me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Cohn". The signature is fluid and cursive, with the first name "Matt" and last name "Cohn" clearly distinguishable.

Matthew Cohn  
Legal Enforcement Program

Enclosures

cc: Paul Peronard  
Kelcey Land

# **REIMBURSEMENT AGREEMENT**

## **LIBBY ASBESTOS SITE**

**Lincoln County, Montana**

**THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2000, by and between Mel and Lirah Parker ( "Owner") and the United States Environmental Protection Agency ("EPA").**

**WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300; and**

**WHEREAS, the Owner is the owner of the land and improvements (the "Property") within the Screening Plant, a former vermiculite processing facility located within the Site; and**

**WHEREAS, the Owner maintained a residence on the Property and operates the Raintree Nursery, a business located on the Property; and**

**WHEREAS, the Action Memorandum issued by EPA on May 23, 2000 documented EPA's determination that cleanup was necessary at the Screening Plant because of asbestos contamination, thus requiring the temporary relocation of the Owner's home and business; and**

**WHEREAS, the selected response action being implemented at the Property resulted in or will result in the demolition of the Owner's home and buildings related to the nursery business, and the disposal of contaminated personal items, business inventory and other business related items which were either not amenable to cleaning or were more expensive to clean than to replace; and**

**WHEREAS, the Owner certifies that the Property was purchased with no knowledge of the asbestos contamination; and**

**WHEREAS, the Owner granted access to the Property to EPA, its employees, agents, contractors and representatives for purposes of implementing the selected response action for the Screening Plant; and**

**WHEREAS, EPA has been providing funds to the Owner for temporary relocation assistance so that the Owner may maintain a different residence during the implementation of the selected response action at the Screening Plant;**

**WHEREAS, EPA and the Owner continue to evaluate appropriate compensation for buildings demolished and to be demolished on the Property;**

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

**I. Obligations of EPA.**

A. EPA shall provide a "Notice of Availability of Property" to the Owner upon completion of the response actions at the Screening Plant. The Owner may commence construction of a new dwelling on the date of issuance of the Notice.

B. EPA shall pay to the Owner the sum of FIVE HUNDRED FORTY SIX THOUSAND FOUR HUNDRED TWENTY DOLLARS AND NINETY ONE CENTS (\$546,420.91) within thirty (30) days of execution of this Agreement, which sum represents the replacement value of all personal items, equipment and inventory disposed of pursuant to implementation of the selected response action. The list of all items for which compensation is being provided pursuant to this paragraph is attached as Exhibit 1 to this Agreement.

C. EPA shall continue to pay to the Owner funds for temporary relocation assistance in accordance with the fee schedule set forth in Exhibit 2 to this Agreement until six months after the date of issuance of the Notice of Availability of Property. If EPA issues the Notice between October 1st and March 30th, the temporary relocation assistance period shall not exceed nine months from the date of the Notice of Availability of Property.

D. EPA will assure that the compaction of the soil meets government-issued specifications for construction at the proposed location for the new dwelling. In addition, upon completion of the response action, the replacement of the soil shall be graded in accordance with the Grading/Restoration Plan attached as Exhibit 3.

**II. Obligations of the Owner.**

A. The Owner has and will continue to provide to EPA, its employees, agents, contractors, and representatives the right to enter upon the Property for purposes of implementing the selected response action at the Screening Plant through the date of the Notice of Availability of Property. The Owner further consents to the demolition of buildings, and disposal of contaminated personal items, business equipment and inventory covered by this Agreement.

B. The Owner agrees that compensation will not be sought in any forum for personal items, equipment, inventory and relocation costs where such compensation has already been provided for pursuant to this Agreement.

**III. Release of Claims.**

The Owner hereby agrees that payment by EPA of the monetary amounts set forth herein in Paragraphs I.B. and I.C. represents full settlement and just compensation, under all applicable laws and regulations, of any and all claims the Owner may have against EPA as compensation for the replacement value of all personal items, equipment and inventory disposed of pursuant to

implementation of the selected response action. The list of all items for which compensation is being provided pursuant to this paragraph is attached as Exhibit 1 to this Agreement. The parties to this Agreement agree and represent that no part of the compensation paid for this limited release is intended as compensation for demolition of buildings and structures on the Property. The Owner expressly reserves the right to compensation for buildings, structures, infrastructure (i.e., in-ground irrigation, electrical and plumbing), lawns, fence roads, asphalt, and concrete located on the Property. The Parties contemplate resolving by separate agreement a fair and appropriate amount of compensation to be paid by EPA for the resulting demolition of buildings, structures, infrastructure, lawns, roads, asphalt, and concrete located on the Property. The Owner expressly reserves all rights against W.R. Grace & Company and any other legal entity, and this release is not intended to release any other rights or causes of action against any and all legal entities other than the EPA.

#### **IV. Reservation of Rights.**

Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

#### **V. Notices.**

A. Any notice or communication required or permitted under this Agreement shall be deemed to have been given if in writing and either delivered personally or mailed by first-class, registered, or certified mail, as follows:

If to the Owner:

Mel and Lirah Parker  
P.O. Box 609  
Libby, MT 59923

If to EPA:

Paul Peronard, EPR-ER  
U.S. Environmental Protection Agency  
999 18th Street, Suite 300  
Denver, CO 80202

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner prescribed above.

**VI. Modification.**

This Agreement may be amended, modified or terminated only by written instrument or written instruments signed by both parties hereto. No oral comment nor act or course of dealing shall be construed to constitute an amendment, modification or termination hereof.

**VII. Parties Bound**

This Agreement is binding upon EPA and any successor agency of the U.S. Government, and upon the Owner and the Owner's heirs, successors and assigns.

**VIII. Obligation of Future Appropriations**

Nothing in this Agreement shall constitute, nor be deemed to constitute, an obligation of future appropriations by the Congress of the United States of America.

**IX. Payment Information**

Payee name and address:

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Receiving bank information for wire transfer:

Parker Account Name: 

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Account Number: 

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Bank Name: 

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Bank Number: 

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Wire Transfer Number: 

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IN WITNESS WHEREOF, the parties have executed this Agreement, which shall become effective upon the date on which EPA executes the Agreement.

Owner

U.S. Environmental Protection Agency

\_\_\_\_\_  
Mel Parker

\_\_\_\_\_  
Max Dodson

Assistant Regional Administrator  
Office of Ecosystem Protection  
and Remediation

\_\_\_\_\_  
Social Security Number

Date: \_\_\_\_\_

\_\_\_\_\_  
Lirah Parker

\_\_\_\_\_  
Social Security Number

Date: \_\_\_\_\_

Notary: \_\_\_\_\_

Date: \_\_\_\_\_